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WASHINGTON, D.C. 20231  
www.uspto.gov  
DW 10-02

Paper No. 45

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**OCT 29 2002**

**OFFICE OF PETITIONS**

In re Application of :  
Manabu Kato :  
Application No. 08/951,635 :  
Filed: 17 October, 1997 :  
Attorney Docket No. 35.C11250CON :

**ON PETITION**

This is a decision on the petition under 37 CFR 1.182, filed by facsimile on 26 September, 2002, requesting entry of an amendment to the specification to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120.

The petition is **GRANTED**.

The record discloses that a request for a Continued Prosecution Application (CPA) was filed on 24 August, 1998, and on 26 August, 1999. Pursuant to the provisions of 37 CFR 1.53(d)(1)(v), a request for a CPA is a request to expressly abandon the prior application as of the filing date of the request. A request for a CPA is the specific reference required by 35 U.S.C. § 120 to every application assigned the application number; however, the prior application failed to make a specific reference to the prior-filed applications, namely Application No. 08/522,118, filed on 31 August, 1995, prior to the abandonment thereof. Petitioners now request that the prior abandoned application be amended by inserting a reference to the earlier-filed applications. On 26 September, 2002, petitioners filed an amendment to include a reference to the prior-filed application in the first line of the specification following the title of the invention.

35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to 29 November, 2000, to include the benefit of an earlier filing date for purposes other than prosecution.<sup>1</sup>


In view thereof, the request for entry of an amendment to insert a reference to the above-noted earlier-filed applications is granted.

The amendment has been entered. A corrected filing receipt which includes the reference to the prior-filed applications accompanies this decision on petition.

The petition fee of \$130.00 has been charged to counsel's deposit account, No. 06-1205, as authorized in the present petition.

The application is being forwarded to Technology Center 2800 to await petitioners' response to the non-final Office action mailed on 13 August, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.



Douglas I. Wood  
Senior Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Attach: Corrected Filing Receipt

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<sup>1</sup>See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (D.C.D.C. 1976).